

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 293

## **SENATE BILL 1128**

AN ACT

AMENDING SECTIONS 32-3401, 32-3403, 32-3404 AND 32-3405, ARIZONA REVISED STATUTES; CHANGING THE ARTICLE HEADING OF TITLE 32, CHAPTER 34, ARTICLE 2, ARIZONA REVISED STATUTES, TO "LICENSURE"; REPEALING SECTION 32-3421, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 34, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-3421; AMENDING SECTIONS 32-3422, 32-3423, 32-3424, 32-3426, 32-3427, 32-3428, 32-3429, 32-3430, 32-3441 AND 32-3442, ARIZONA REVISED STATUTES; RELATING TO OCCUPATIONAL THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-3401, Arizona Revised Statutes is amended to read:

32-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of occupational therapy examiners.

2. "Consultation" means the act or procedure of exchanging ideas or information or providing professional advice TO ANOTHER PROFESSIONAL OR RESPONSIBLE PARTY REGARDING THE PROVISION OF OCCUPATIONAL THERAPY SERVICES.

~~3. "Direct supervision" means that the supervising occupational therapist is on the premises at all times while a limited permittee is performing occupational therapy services or when an unlicensed person is performing authorized tasks.~~

~~4.~~ 3. "Evaluation" means the AN OCCUPATIONAL THERAPIST'S assessment of treatment needs within the scope of practice of occupational therapy. Evaluation does not include making a medical diagnosis.

4. "LETTER OF CONCERN" MEANS A NONDISCIPLINARY ADVISORY LETTER TO NOTIFY A LICENSEE THAT, WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY ACTION, THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN PRACTICES AND THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION BEING SUBMITTED TO THE BOARD MAY RESULT IN FUTURE ACTION AGAINST THE LICENSEE'S LICENSE.

5. "Occupational therapist" means a person licensed pursuant to this chapter to practice occupational therapy WHO IS A GRADUATE OF AN ACCREDITED OCCUPATIONAL THERAPY EDUCATION PROGRAM, COMPLETES THE APPROVED FIELDWORK AND PASSES THE EXAMINATION PRESCRIBED BY THE BOARD PURSUANT TO SECTION 32-3424.

6. "Occupational therapy" means the use of ~~occupational therapy services~~ THERAPEUTIC ACTIVITIES OR MODALITIES TO PROMOTE ENGAGEMENT IN ACTIVITIES with individuals who are limited by physical OR COGNITIVE injury or illness, psychosocial dysfunction, developmental or learning disabilities, ~~socioeconomic and cultural differences~~ SENSORY PROCESSING OR MODULATION DEFICITS or the aging process in order to achieve optimum functional performance, maximize independence, prevent disability and maintain health. ~~including~~ OCCUPATIONAL THERAPY INCLUDES evaluation, treatment and consultation BASED ON THE CLIENT'S TEMPORAL, SPIRITUAL AND CULTURAL VALUES AND NEEDS.

7. "Occupational therapy assistant" means a person who is licensed pursuant to this chapter, who is a graduate of an accredited occupational therapy ASSISTANT education program ~~or the equivalent~~, who assists in the practice of occupational therapy and who performs delegated procedures commensurate with ~~his~~ THE PERSON'S education and training.

8. "Occupational therapy services" includes the following:

(a) ~~Evaluation and development of~~ DEVELOPING AN INTERVENTION and training PLAN ~~in activities of daily living and social skills~~ THAT IS BASED ON THE OCCUPATIONAL THERAPIST'S EVALUATION OF THE CLIENT'S OCCUPATIONAL

1 HISTORY AND EXPERIENCES INCLUDING THE CLIENT'S DAILY LIVING ACTIVITIES,  
2 DEVELOPMENT, ACTIVITY DEMANDS, VALUES AND NEEDS. ~~Treatment modalities for~~  
3 ~~occupational therapy may include play, self-help skills, work and related~~  
4 ~~activities.~~

5 (b) ~~Evaluation and facilitation of~~ EVALUATING AND FACILITATING  
6 developmental, perceptual-motor, INTERACTION, COMMUNICATION, neuromuscular  
7 and ~~sensory integrative~~ SENSORY PROCESSING function AND SYSTEMIC FUNCTIONING,  
8 SUCH AS WOUND AND LYMPHATIC AND CARDIAC FUNCTIONING.

9 (c) ~~Enhancement of~~ ENHANCING functional achievement, prevocational  
10 skills and work capabilities through the use of therapeutic, ~~kinetic,~~  
11 ~~functional, manual and creative activities or exercises~~ ACTIVITIES AND  
12 MODALITIES THAT ARE BASED ON ANATOMY, PHYSIOLOGY AND KINESIOLOGY, GROWTH AND  
13 DEVELOPMENT, DISABILITIES, TECHNOLOGY AND ANALYSIS OF HUMAN PERFORMANCE.

14 (d) ~~Evaluation, design and fabrication of~~ EVALUATING, DESIGNING,  
15 FABRICATING and training the individual in the use of selective ~~orthotic~~  
16 ORTHOTICS, ~~prosthetic~~ PROSTHETICS, and adaptive devices, ASSISTIVE TECHNOLOGY  
17 AND DURABLE MEDICAL EQUIPMENT as appropriate.

18 (e) ~~Administration and interpretation of~~ ADMINISTERING AND  
19 INTERPRETING standardized and nonstandardized tests THAT ARE PERFORMED WITHIN  
20 THE PRACTICE OF OCCUPATIONAL THERAPY, including manual muscle, sensory  
21 PROCESSING, and range of motion, ~~performed within the practice of~~  
22 ~~occupational therapy as an aid to treatment~~ COGNITION AND DEVELOPMENTAL  
23 TESTS.

24 (f) ~~Assessment and adaptation of~~ ASSESSING AND ADAPTING environments  
25 for individuals with ~~handicaps and those~~ DISABILITIES OR WHO ARE at risk for  
26 dysfunction.

27 9. "SUPERVISION" MEANS THAT THE SUPERVISING OCCUPATIONAL THERAPIST OR  
28 OCCUPATIONAL THERAPY ASSISTANT IS PRESENT OR AVAILABLE PURSUANT TO RULES  
29 ADOPTED BY THE BOARD FOR THE LICENSEE WHO IS PERFORMING OCCUPATIONAL THERAPY  
30 SERVICES OR WHEN AN UNLICENSED PERSON IS PERFORMING TASKS AT THE DIRECTION OF  
31 A LICENSED OCCUPATIONAL THERAPIST OR LICENSED OCCUPATIONAL THERAPY ASSISTANT.

32 9. 10. "Unprofessional conduct" includes the following ~~acts~~:

33 (a) Habitual intemperance in the use of alcohol.

34 (b) Habitual use of narcotic or hypnotic drugs.

35 (c) Gross incompetence, repeated incompetence or incompetence  
36 resulting in injury to a ~~patient~~ CLIENT.

37 (d) Having professional connection with or lending the name of the  
38 licensee to an ~~illegal practitioner of occupational therapy or any of the~~  
39 ~~other healing arts~~ UNLICENSED OCCUPATIONAL THERAPIST.

40 (e) PRACTICING OR OFFERING TO PRACTICE OCCUPATIONAL THERAPY BEYOND THE  
41 SCOPE OF THE PRACTICE OF OCCUPATIONAL THERAPY.

42 (f) OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE BY FRAUD OR  
43 MISREPRESENTATION OR ASSISTING A PERSON TO OBTAIN OR TO ATTEMPT TO OBTAIN A  
44 LICENSE BY FRAUD OR MISREPRESENTATION.

1 (g) FAILING TO PROVIDE SUPERVISION ACCORDING TO THIS CHAPTER AND RULES  
2 ADOPTED PURSUANT TO THIS CHAPTER.

3 (h) MAKING MISLEADING, DECEPTIVE, UNTRUE OR FRAUDULENT REPRESENTATIONS  
4 IN VIOLATION OF THIS CHAPTER.

5 (i) HAVING BEEN ADJUDGED MENTALLY INCOMPETENT BY A COURT OF COMPETENT  
6 JURISDICTION.

7 (j) AIDING A PERSON WHO IS NOT LICENSED IN THIS STATE AND WHO DIRECTLY  
8 OR INDIRECTLY PERFORMS ACTIVITIES REQUIRING A LICENSE.

9 (k) FAILING TO REPORT TO THE BOARD ANY ACT OR OMISSION OF A LICENSEE  
10 OR APPLICANT OR OF ANY OTHER PERSON WHO VIOLATES THIS CHAPTER.

11 (l) ENGAGING IN THE PERFORMANCE OF SUBSTANDARD CARE BY A LICENSEE DUE  
12 TO A DELIBERATE OR NEGLIGENT ACT OR FAILURE TO ACT, REGARDLESS OF WHETHER  
13 ACTUAL INJURY TO THE PERSON RECEIVING OCCUPATIONAL THERAPY SERVICES IS  
14 ESTABLISHED.

15 ~~(e)~~ (m) Failing to refer a ~~patient~~ CLIENT whose condition is beyond  
16 the training or ability of the occupational therapist to another professional  
17 qualified to provide such service.

18 ~~(f) Immorality or misconduct that tends to discredit the occupational~~  
19 ~~therapy profession.~~

20 ~~(g)~~ (n) Censure of a licensee or refusal, revocation, suspension or  
21 restriction of a license to practice occupational therapy by any other state,  
22 territory, district or country, unless ~~it can be shown~~ THE APPLICANT OR  
23 LICENSEE CAN DEMONSTRATE that ~~this was not occasioned by reasons~~ THE  
24 DISCIPLINARY ACTION ~~which relate~~ THAT IS NOT RELATED to the ability to safely  
25 and skillfully practice occupational therapy or to any act of unprofessional  
26 conduct prescribed in this ~~paragraph~~ SUBSECTION.

27 ~~(h)~~ (o) Any conduct or practice ~~contrary to~~ THAT VIOLATES recognized  
28 standards of ethics of the occupational therapy profession, any conduct or  
29 practice ~~which~~ THAT does or might constitute a danger to the health, welfare  
30 or safety of the ~~patient~~ CLIENT or the public, or any conduct, practice or  
31 condition ~~which~~ THAT does or might impair the licensee's ability to safely  
32 and skillfully practice occupational therapy.

33 ~~(i)~~ (p) Violating or attempting to violate, directly or indirectly,  
34 or assisting in or abetting the violation of or conspiring to violate any of  
35 the provisions of this chapter.

36 ~~(j)~~ (q) FALSELY CLAIMING TO HAVE PERFORMED A PROFESSIONAL SERVICE,  
37 BILLING FOR A SERVICE NOT RENDERED OR charging or collecting a ~~clearly~~ AN  
38 excessive fee FOR SERVICES NOT PERFORMED.

39 ~~(k)~~ (r) Sexually inappropriate conduct with a ~~patient~~ CLIENT. For  
40 the purposes of this ~~subdivision~~ SECTION, "sexually inappropriate conduct"  
41 includes:

42 ~~(i) Engaging in sexual intercourse or oral genital contact with a~~  
43 ~~patient.~~

44 ~~(ii) Inappropriately touching a patient's genital area.~~

45 ~~(iii) Suggesting a sexual relationship with a current patient.~~

(i) ENGAGING IN OR SOLICITING A SEXUAL RELATIONSHIP, WHETHER  
CONSENSUAL OR NONCONSENSUAL, WHILE A PROVIDER RELATIONSHIP EXISTS.

(ii) MAKING SEXUAL ADVANCES, REQUESTING SEXUAL FAVORS OR ENGAGING IN  
OTHER VERBAL CONDUCT OR INAPPROPRIATE PHYSICAL CONTACT OF A SEXUAL NATURE  
WITH A PERSON TREATED BY AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
ASSISTANT.

(iii) INTENTIONALLY VIEWING A COMPLETELY OR PARTIALLY DISROBED CLIENT  
IN THE COURSE OF TREATMENT IF THE VIEWING IS NOT RELATED TO TREATMENT UNDER  
CURRENT PRACTICE STANDARDS.

~~(t)~~ (s) Knowingly making a false or misleading statement to the board  
on a license application or renewal form required by the board or any other  
verbal or written communications directed to the board or its staff.

~~(m)~~ (t) Committing a felony, whether or not involving moral  
turpitude, or a misdemeanor involving moral turpitude. ~~In either case,~~  
Conviction by a court of competent jurisdiction or a plea of no contest is  
conclusive evidence that the felony or misdemeanor was committed.

~~(n)~~ (u) Violating a ~~board rule that is~~ ANY FEDERAL LAW, STATE LAW,  
RULE OR REGULATION directly related to the practice of occupational therapy.

(v) ENGAGING IN FALSE ADVERTISING OF OCCUPATIONAL THERAPY SERVICES.

(w) ENGAGING IN THE ASSAULT OR BATTERY OF A CLIENT.

(x) FALSIFYING CLIENT DOCUMENTS OR REPORTS.

(y) FAILING TO DOCUMENT OR MAINTAIN CLIENT TREATMENT RECORDS OR  
FAILING TO PREPARE CLIENT REPORTS WITHIN THIRTY DAYS OF SERVICE OR TREATMENT.

(z) FAILING TO RENEW A LICENSE WHILE CONTINUING TO PRACTICE  
OCCUPATIONAL THERAPY.

(aa) SIGNING A BLANK, UNDATED OR UNPREPARED PRESCRIPTION FORM.

Sec. 2. Section 32-3403, Arizona Revised Statutes, is amended to read:

32-3403. Executive director; personnel; duties; compensation

A. The board may employ and discharge an executive director and other  
officers and employees as it deems necessary and designate their duties.  
Board personnel are eligible to receive compensation as determined pursuant  
to section 38-611.

~~B. The issuance of licenses shall be recorded by the executive  
director, and the documentation of licenses awarded or withheld shall be  
filed with the board.~~

B. THE EXECUTIVE DIRECTOR SHALL:

1. ISSUE AND DOCUMENT LICENSES APPROVED BY THE BOARD.

2. KEEP A RECORD OF THE STATUS OF LICENSES AND LICENSEES.

3. KEEP A RECORD OF THE STATUS OF APPLICANTS, INCLUDING THOSE WHOSE  
APPLICATIONS ARE DENIED.

4. PERFORM TASKS AND DUTIES ASSIGNED BY THE BOARD.

5. COLLECT FEES AND MAINTAIN ACCOUNTING RECORDS ACCORDING TO GENERALLY  
ACCEPTED ACCOUNTING PRINCIPLES.

1       Sec. 3. Section 32-3404, Arizona Revised Statutes, is amended to read:

2       32-3404. Powers and duties; rules; reports; hearings;

3               commissioners

4       A. The board shall:

5       1. Administer, coordinate and enforce ~~the provisions of~~ this chapter.

6       2. Evaluate the qualifications of applicants.

7       3. Prescribe examination requirements for licensure.

8       4. Adopt rules necessary to carry out ~~the provisions of~~ this chapter.

9       5. Conduct INFORMAL MEETINGS, FORMAL INTERVIEWS AND hearings and keep  
10 records and minutes necessary to carry out its functions.

11       6. PRESCRIBE EDUCATIONAL PROGRAMS REQUIRED FOR LICENSURE PURSUANT TO  
12 THIS CHAPTER.

13       B. The board may:

14       1. Appoint commissioners to assist in the performance of its duties.

15       2. Report any violations of this chapter or rules adopted pursuant to  
16 this chapter to a county attorney, the attorney general, a federal agency or  
17 a state or national organization.

18       C. Commissioners appointed pursuant to subsection B, paragraph 1 shall  
19 receive no compensation for their services but shall be reimbursed for actual  
20 and necessary expenses ~~which~~ THAT they may incur in the performance of their  
21 duties.

22       Sec. 4. Section 32-3405, Arizona Revised Statutes, is amended to read:

23       32-3405. Occupational therapy fund; deposit of receipts by

24               board; account

25       A. The occupational therapy fund is established. Pursuant to  
26 sections 35-146 and 35-147, civil penalties imposed under section 32-3442,  
27 subsection ~~G~~, K shall be deposited in the state general fund. The board  
28 shall deposit ten per cent of all other monies collected under this chapter  
29 in the state general fund and deposit the remaining ninety per cent in the  
30 occupational therapy fund. Monies in the occupational therapy fund may be  
31 used by the board for payment of all necessary board expenses, including  
32 compensation and expenses of board members ~~upon~~ AND BOARD STAFF ON claims  
33 approved by the board.

34       B. Monies deposited in the occupational therapy fund are subject to  
35 section 35-143.01.

36       C. The board shall establish a separate account in the fund for  
37 monies transferred to the fund pursuant to section 32-4105.

38       Sec. 5. Heading change

39       The article heading of title 32, chapter 34, article 2, Arizona  
40 Revised Statutes, is changed from "REGISTRATION" to "LICENSURE".

41       Sec. 6. Repeal

42       Section 32-3421, Arizona Revised Statutes, is repealed.

1           Sec. 7. Title 32, chapter 34, article 2, Arizona Revised Statutes, is  
2 amended by adding a new section 32-3421, to read:

3           32-3421. Practicing without a license: prohibition: use of  
4                   titles

5           A. EXCEPT AS PROVIDED BY SECTION 32-3422, A PERSON SHALL NOT DO ANY OF  
6 THE FOLLOWING IN THIS STATE UNLESS LICENSED PURSUANT TO THIS CHAPTER:

- 7           1. PRACTICE OR ASSIST IN THE PRACTICE OF OCCUPATIONAL THERAPY.  
8           2. CLAIM TO BE AN OCCUPATIONAL THERAPIST, AN OCCUPATIONAL THERAPY  
9 ASSISTANT OR A PROVIDER OF OCCUPATIONAL THERAPY SERVICES.  
10          3. RENDER OCCUPATIONAL THERAPY SERVICES.

11          B. A PERSON SHALL NOT USE ANY OF THE FOLLOWING TITLES, OR ANY LETTERS,  
12 ABBREVIATIONS OR INSIGNIA OF THESE TITLES, IN CONNECTION WITH THAT PERSON'S  
13 NAME OR PLACE OF BUSINESS UNLESS THE PERSON IS LICENSED PURSUANT TO THIS  
14 CHAPTER:

- 15          1. "OCCUPATIONAL THERAPIST".  
16          2. "LICENSED OCCUPATIONAL THERAPIST".  
17          3. "OCCUPATIONAL THERAPIST REGISTERED".  
18          4. "OCCUPATIONAL THERAPY ASSISTANT".  
19          5. "LICENSED OCCUPATIONAL THERAPY ASSISTANT".  
20          6. "CERTIFIED OCCUPATIONAL THERAPY ASSISTANT".

21          Sec. 8. Section 32-3422, Arizona Revised Statutes, is amended to read:  
22          32-3422. Persons and practices not required to be licensed

23          This chapter does not prevent or restrict the practice, services or  
24 activities of:

- 25          1. A person engaging in the practice of that person's profession if  
26 the service is not practiced AS or represented to be occupational therapy.  
27          2. A person licensed in this state from engaging in the profession or  
28 occupation for which the person is licensed.  
29          3. A person employed as an occupational therapist or occupational  
30 therapy assistant by the United States or any agency of the United States, if  
31 that person provides occupational therapy solely under the direction or  
32 control of the agency ~~by which~~ THAT EMPLOYS that person ~~is employed~~.  
33          4. A person pursuing a supervised course of study leading to a degree  
34 or certificate in occupational therapy at an accredited or approved  
35 educational program PURSUANT TO SECTION 32-3404, if the person is designated  
36 by a title that clearly indicates the person's status as a student or  
37 trainee.  
38          5. A person fulfilling the supervised fieldwork experience  
39 requirements of section 32-3423, if the experience constitutes a part of the  
40 FIELDWORK experience necessary to meet the requirements of section 32-3423.  
41          6. A person performing occupational therapy services in this state for  
42 purposes of continuing education, consultation ~~and~~ OR training, if these  
43 services are performed for no more than a cumulative total of sixty days in a  
44 calendar year in association with an occupational therapist licensed under  
45 this chapter, if either of the following is true:

1 (a) The person is licensed as an occupational therapist or  
2 occupational therapy assistant in good standing in another state.

3 (b) The person is certified by the national board for certification in  
4 occupational therapy, incorporated.

5 7. A person employed by a health care provider licensed pursuant to  
6 another chapter of this title if the person does not claim to be an  
7 occupational therapist or occupational therapy assistant and ~~such~~ THE  
8 services or activities constitute a part of the person's job duties.

9 Sec. 9. Section 32-3423, Arizona Revised Statutes, is amended to read:  
10 32-3423. Application for licensure; qualifications; examination

11 A. An applicant for licensure as an occupational therapist or as an  
12 occupational therapy assistant shall ~~file a written application, provided by~~  
13 ~~the board, showing to the satisfaction of the board that the applicant:~~

14 1. ~~Is BE of good moral character and has not been convicted of a crime~~  
15 ~~of moral turpitude.~~ IN DETERMINING WHETHER A PERSON IS OF GOOD MORAL  
16 CHARACTER, THE BOARD MAY CONSIDER WHETHER THE PERSON HAS BEEN CONVICTED OF A  
17 FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE.

18 2. ~~Has Successfully completed COMPLETE~~ the academic requirements of an  
19 educational program in occupational therapy ~~recognized APPROVED~~ by the board  
20 PURSUANT TO SECTION 32-3404. ~~The board shall recognize an occupational~~  
21 ~~therapy and occupational therapy assistant educational program accredited by~~  
22 ~~the accreditation council for occupational therapy education established by~~  
23 ~~the American occupational therapy association, incorporated.~~

24 3. ~~Has Successfully completed COMPLETE~~ a period of supervised  
25 fieldwork experience acceptable to the board. The board shall require:

26 (a) For an occupational therapist, a minimum of ~~twenty-four weeks~~ NINE  
27 HUNDRED TWENTY-EIGHT HOURS of supervised fieldwork experience AS DETERMINED  
28 BY THE SUPERVISING INSTITUTION, ORGANIZATION OR SPONSOR.

29 (b) For an occupational therapy assistant, a minimum of ~~eight weeks~~  
30 SIX HUNDRED EIGHT HOURS of supervised fieldwork experience AS DETERMINED BY  
31 THE SUPERVISING INSTITUTION, ORGANIZATION OR SPONSOR.

32 4. ~~Has passed~~ PASS an examination administered pursuant to section  
33 32-3424.

34 5. PAY THE APPLICATION FEE PRESCRIBED IN SECTION 32-3427.

35 B. AN APPLICANT WHO IS DENIED A LICENSE MAY REQUEST A HEARING PURSUANT  
36 TO TITLE 41, CHAPTER 6, ARTICLE 10.

37 Sec. 10. Section 32-3424, Arizona Revised Statutes, is amended to  
38 read:

39 32-3424. Examination for licensure of occupational therapists  
40 and occupational therapy assistants

41 A. An applicant for licensure shall take a written examination  
42 approved and administered by the national board for certification in  
43 occupational therapy, incorporated. The examination shall test an  
44 applicant's knowledge of the basic and clinical services relating to



1 PROVIDING occupational therapy SERVICES, ~~occupational therapy techniques and~~  
2 ~~methods, and other subjects as the board requires.~~

3 B. ~~It is the responsibility of The applicant to~~ SHALL arrange for the  
4 examination following successful completion of the academic and fieldwork  
5 requirements of section 32-3423 and ~~to present the board with~~ SUBMIT evidence  
6 of successful completion of the examination.

7 Sec. 11. Section 32-3426, Arizona Revised Statutes, is amended to  
8 read:

9 32-3426. Renewal of license; inactive status; notice of address  
10 or name change

11 A. A license issued under this chapter is subject to renewal every two  
12 years and expires unless renewed. The board may reinstate a AN EXPIRED  
13 license ~~cancelled for failure to renew on compliance with board rules for~~  
14 ~~renewal of licenses.~~ IF THE LICENSEE:

- 15 1. COMPLIES WITH BOARD RULES FOR RENEWAL OF LICENSES.
- 16 2. IS NOT IN VIOLATION OF THIS CHAPTER OR BOARD RULES OR ORDERS.
- 17 3. PAYS THE FEES PRESCRIBED PURSUANT TO SECTION 32-3427.

18 B. ~~On request,~~ A LICENSEE MAY REQUEST AND the board ~~shall~~ MAY grant  
19 inactive status to a licensee who ~~does not~~ CEASES TO practice as an  
20 occupational therapist or occupational therapy assistant ~~and who maintains~~  
21 ~~any continuing education requirements.~~

22 C. The board may establish by rule additional requirements for license  
23 renewal ~~which~~ TO require THE SUCCESSFUL COMPLETION OF A PRESCRIBED NUMBER OF  
24 HOURS OF continuing education AS A CONDITION OF LICENSURE RENEWAL.

25 D. A LICENSEE MUST REPORT TO THE BOARD IN WRITING A NAME CHANGE AND  
26 ANY CHANGE IN BUSINESS OR HOME ADDRESS WITHIN THIRTY DAYS AFTER THE CHANGE.

27 Sec. 12. Section 32-3427, Arizona Revised Statutes, is amended to  
28 read:

29 32-3427. Fees

30 A. The board ~~shall~~ by rule, SHALL establish and collect fees not to  
31 exceed:

- 32 1. One hundred dollars for application for a license.
- 33 2. Three hundred dollars for an initial license.
- 34 3. Three hundred dollars for renewal of a license.
- 35 4. Three hundred dollars for an application for reinstatement.
- 36 5. Seventy-five dollars for a limited ~~permit~~ LICENSE.
- 37 6. Fifty dollars for a duplicate license.

38 B. The board, by rule, shall establish and collect fees for renewal of  
39 an inactive status license.

40 Sec. 13. Section 32-3428, Arizona Revised Statutes, is amended to  
41 read:

42 32-3428. Limited license

43 A. The board may grant a limited ~~permit~~ LICENSE to a person who has  
44 not taken the licensure examination if that person was trained in this

1 country and has completed the academic and fieldwork requirements of this  
2 chapter.

3 B. The board may grant a limited ~~permit~~ LICENSE to a foreign-trained  
4 person who has completed the academic and fieldwork requirements of this  
5 chapter if that person has not taken the licensure examination ~~and~~ BUT  
6 submits proof of acceptance to take the licensure examination.

7 C. The holder of a limited ~~permit~~ LICENSE may practice occupational  
8 therapy only under the ~~direct~~ supervision of a licensed occupational  
9 therapist.

10 D. A limited ~~permit~~ LICENSE is valid for four months and becomes void  
11 if a person fails the examination. The limited ~~permit~~ LICENSE expires if a  
12 person passes the examination and is issued a license under section 32-3425,  
13 subsection C.

14 E. The board may reissue a limited ~~permit~~ LICENSE once.

15 Sec. 14. Section 32-3429, Arizona Revised Statutes, is amended to  
16 read:

17 32-3429. Foreign trained applicants

18 Foreign trained occupational therapists and occupational therapy  
19 assistants shall:

20 1. Satisfy the examination requirements of section 32-3424. ~~The board~~  
21 ~~shall require foreign trained applicants to furnish~~

22 2. PROVIDE proof of good moral character. ~~and completion of~~

23 3. COMPLETE THE academic and supervised fieldwork requirements,  
24 substantially equal to those contained in section 32-3423 before taking the  
25 examination.

26 4. SUBMIT A COMPLETED APPLICATION AS PRESCRIBED BY THE BOARD.

27 5. PAY ALL APPLICABLE FEES PRESCRIBED PURSUANT TO SECTION 32-3427.

28 Sec. 15. Section 32-3430, Arizona Revised Statutes, is amended to  
29 read:

30 32-3430. Fingerprinting

31 A. Each applicant for original licensure, license renewal, license  
32 reinstatement or a limited ~~permit~~ LICENSE pursuant to this chapter who has  
33 not previously done so shall submit a full set of fingerprints to the board  
34 AT THE APPLICANT'S OR LICENSEE'S EXPENSE for the purpose of obtaining a state  
35 and federal criminal records check pursuant to section 41-1750 and Public Law  
36 92-544. The department of public safety may exchange this fingerprint data  
37 with the federal bureau of investigation.

38 B. If the board does not have any evidence or reasonable suspicion  
39 that the applicant has a criminal history AND THE APPLICANT OTHERWISE  
40 SATISFIES THE REQUIREMENTS OF SECTION 32-3423, the board may issue a license  
41 or a limited ~~permit~~ LICENSE before it receives the results of a criminal  
42 records check.

43 C. The board shall suspend a license or a limited ~~permit~~ LICENSE of a  
44 person who submits an unreadable set of fingerprints and does not submit a

1 new readable set of fingerprints within twenty days after being notified by  
2 the board ~~to do so~~.

3 D. This section does not affect the board's authority to otherwise  
4 issue, deny, cancel, terminate, suspend or revoke a license OR A LIMITED  
5 LICENSE.

6 Sec. 16. Section 32-3441, Arizona Revised Statutes, is amended to  
7 read:

8 32-3441. Proper use of title or designation of occupational  
9 therapists; license display; supervision;  
10 responsibility

11 A. A person who ~~receives a license~~ IS LICENSED PURSUANT TO THIS  
12 CHAPTER to practice as an occupational therapist and WHO is in good standing  
13 may use the title of licensed occupational therapist and the abbreviation  
14 ~~"O.T.,"~~ "O.T.", "O.T./L.", "O.T.R." or "O.T.R./L.". A person who ~~receives a~~  
15 ~~license~~ IS LICENSED PURSUANT TO THIS CHAPTER to practice as a licensed  
16 occupational therapy assistant and who is in good standing may use the title  
17 of licensed occupational therapy assistant and the abbreviation "O.T.A.",  
18 "O.T.A./L.", "C.O.T.A." or "C.O.T.A./L.".

19 B. Each occupational therapist and occupational therapy assistant  
20 shall display the person's current license in each facility in which the  
21 person practices occupational therapy. If an occupational therapist or the  
22 occupational therapy assistant fails to display the current license the board  
23 shall take disciplinary action against the licensee. Disciplinary action may  
24 include censure, a civil penalty, probation, suspension or any combination of  
25 these actions.

26 ~~C. Except as provided in section 32-3422, it is unlawful for any~~  
27 ~~person who is not licensed as an occupational therapist or an occupational~~  
28 ~~therapy assistant pursuant to this chapter to do any of the following:~~

- 29 1. ~~Practice or assist in the practice of occupational therapy.~~  
30 2. ~~Claim to be an occupational therapist, an occupational therapy~~  
31 ~~assistant or a provider of occupational therapy services.~~  
32 3. ~~Use in connection with the person's name any words, letters,~~  
33 ~~abbreviations or insignia indicating or implying that the person is an~~  
34 ~~occupational therapist or an occupational therapy assistant or provides~~  
35 ~~occupational therapy services.~~

36 ~~D.~~ C. The board may adopt rules reasonably related to sound patient  
37 CLIENT care governing the AN OCCUPATIONAL THERAPIST'S supervision of licensed  
38 occupational therapy assistants and OR unlicensed personnel ~~by an~~ EMPLOYEES  
39 OR VOLUNTEERS WORKING WITH THE occupational therapist.

40 ~~E.~~ D. An occupational therapist ~~is~~ AND AN OCCUPATIONAL THERAPY  
41 ASSISTANT ARE professionally and legally responsible for patient SUPERVISING  
42 CLIENT care given by nonlicensed personnel ~~under his supervision~~ EMPLOYEES OR  
43 VOLUNTEERS. If an occupational therapist OR OCCUPATIONAL THERAPY ASSISTANT  
44 fails to adequately supervise patient CLIENT care given by nonlicensed  
45 personnel EMPLOYEES OR VOLUNTEERS, the board may take disciplinary action

1 against the licensee OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
2 ASSISTANT.

3 Sec. 17. Section 32-3442, Arizona Revised Statutes, is amended to  
4 read:

5 32-3442. Disciplinary action; informal meetings; formal  
6 interviews; hearings; penalties; files

7 A. The board may ~~investigate any evidence and determine whether:~~

8 1. RECEIVE WRITTEN COMPLAINTS FILED AGAINST LICENSEES AND CONDUCT  
9 INVESTIGATIONS.

10 2. CONDUCT AN INVESTIGATION AT ANY TIME ON ITS OWN INITIATIVE WITHOUT  
11 RECEIPT OF A WRITTEN COMPLAINT IF THE BOARD HAS REASON TO BELIEVE THAT THERE  
12 MAY BE A VIOLATION OF THIS CHAPTER, THAT a licensee is or may be guilty of  
13 unprofessional conduct or THAT A LICENSEE is or may be incompetent.

14 B. Any occupational therapist, occupational therapy assistant or  
15 health care institution as defined in section 36-401 shall, ~~and any other~~  
16 ~~person may,~~ report to the board any information the occupational therapist,  
17 occupational therapy assistant, health care institution or individual may  
18 have that appears to show that an occupational therapist or an occupational  
19 therapy assistant is or may be guilty of unprofessional conduct or is or may  
20 be incompetent.

21 C. A person who provides information to the board in good faith  
22 PURSUANT TO SUBSECTION A OR B OF THIS SECTION is not subject to an action in  
23 civil damages as a result of providing the information. ~~If requested, the~~  
24 ~~board shall not disclose the identity of a person who provides information~~  
25 ~~unless the information or the name of a person making a complaint is~~  
26 ~~essential to proceedings conducted pursuant to this section or unless~~  
27 ~~required by a court of law.~~

28 ~~B.~~ D. Within sixty days of receipt OF A WRITTEN COMPLAINT PURSUANT TO  
29 SUBSECTION A OF THIS SECTION OR INFORMATION PURSUANT TO SUBSECTION B OF THIS  
30 SECTION, the board shall notify the licensee about whom information as  
31 ~~described in subsection A of this section~~ has been received as to the content  
32 of the COMPLAINT OR information. ~~The board shall keep a complaint~~  
33 ~~confidential until it verifies or substantiates the complaint.~~

34 ~~C.~~ E. ~~If, in the opinion of the board, it appears that a licensee is~~  
35 ~~or may be in violation of this chapter,~~ The board may request an informal  
36 MEETING OR A FORMAL interview with the licensee ~~concerned~~ OR ANY OTHER PERSON  
37 TO FURTHER ITS INVESTIGATION OR TO RESOLVE A COMPLAINT.

38 F. ~~If the A licensee refuses the invitation or if the licensee accepts~~  
39 ~~the invitation and if the results of the interview indicate that a civil~~  
40 ~~penalty or suspension or revocation of a license may be in order,~~ BOARD'S  
41 REQUEST FOR AN INFORMAL MEETING OR A FORMAL INTERVIEW, OR IN PLACE OF HOLDING  
42 AN INFORMAL MEETING OR A FORMAL INTERVIEW, the board shall hold a hearing  
43 pursuant to title 41, chapter 6, article 10.

44 G. IF THE RESULTS OF AN INFORMAL MEETING OR A FORMAL INTERVIEW  
45 INDICATE THAT SUSPENSION OR REVOCATION OF THE LICENSEE'S LICENSE OR A CIVIL

1 PENALTY MIGHT BE APPROPRIATE, THE BOARD SHALL NOTIFY THE LICENSEE OF THE TIME  
2 AND PLACE FOR A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

3 H. If, at the informal MEETING OR FORMAL interview, the board finds a  
4 violation of this chapter, but THE VIOLATION IS not of sufficient seriousness  
5 to merit a civil penalty or suspension or revocation of a license, it may  
6 take one or more of the following actions:

7 1. Issue a decree of censure.

8 2. ~~Fix a period~~ ESTABLISH LENGTH and terms of probation best adapted  
9 to protect the public health and safety and rehabilitate or educate the  
10 licensee ~~concerned~~. Probation may include:

11 (a) Submission of the licensee to examinations to determine the mental  
12 or physical condition or professional competence of the licensee AT THE  
13 LICENSEE'S EXPENSE.

14 (b) Occupational therapy training or education that the board believes  
15 to be necessary to correct deficiencies ~~found either pursuant to a hearing or~~  
16 ~~through an examination pursuant to this section.~~

17 (c) Review or supervision of the licensee's practice that the board  
18 finds necessary to identify and correct deficiencies in the practice,  
19 INCLUDING A REQUIREMENT THAT THE LICENSEE REGULARLY REPORT TO THE BOARD ON  
20 MATTERS RELATED TO THE LICENSEE'S PROBATIONARY REQUIREMENTS.

21 (d) Restrictions on the nature and scope of practice to ensure that  
22 the licensee does not practice beyond the limits of the licensee's  
23 capabilities.

24 3. Issue a letter of concern. ~~For the purposes of this paragraph,~~  
25 ~~"letter of concern" means a nondisciplinary advisory letter to notify a~~  
26 ~~licensee that, while there is insufficient evidence to support disciplinary~~  
27 ~~action, the board believes that the licensee should modify or eliminate~~  
28 ~~certain practices and that continuation of the activities that led to the~~  
29 ~~information being submitted to the board may result in action against the~~  
30 ~~licensee's license.~~

31 4. Issue a nondisciplinary order requiring the licensee to complete a  
32 prescribed number of hours of continuing education in an area or areas  
33 prescribed by the board to provide the licensee with the necessary  
34 understanding of PRACTICE STANDARDS FOR LICENSEES INCLUDING current  
35 developments, skills, procedures or treatment INTERVENTIONS.

36 5. DISMISS THE COMPLAINT.

37 ~~D. I. IN ADDITION TO THE TERMS OF PROBATION DESCRIBED IN SUBSECTION~~  
38 ~~H, PARAGRAPH 2 OF THIS SECTION, probation, if deemed necessary, may also~~  
39 ~~include temporary suspension or restriction of the licensee's license to~~  
40 ~~practice. A LICENSEE'S failure to comply with probation OR ANY OTHER BOARD~~  
41 ~~ORDER is cause for a hearing pursuant to title 41, chapter 6, article 10.~~  
42 ~~, based on failure to comply with probation or any other acts or conduct in~~  
43 ~~violation of this chapter and rules adopted pursuant to this chapter.~~

44 ~~E. If, in the opinion of the board, it appears that a licensee is or~~  
45 ~~may be in violation of this chapter, the board may hold a hearing in~~

1 ~~accordance with title 41, chapter 6, article 10 in lieu of or in addition to~~  
2 ~~an informal interview as provided in subsection C of this section.~~

3 ~~F.~~ J. At the licensee's expense the board may require any combination  
4 of a physical, mental or occupational therapy competence examination as part  
5 of a board investigation, including, if necessary, the taking of depositions  
6 as may be required to fully inform itself with respect to the allegations  
7 presented by the complaint. These examinations may include biological fluid  
8 testing.

9 ~~G.~~ K. Any licensee who, after a hearing, is found guilty of  
10 unprofessional conduct or incompetence is subject to THE FOLLOWING:

- 11 1. A decree of censure. ~~—~~
- 12 2. Probation as provided in this section. ~~—~~
- 13 3. Suspension OR REVOCATION of THE license. ~~revocation of license,~~
- 14 4. Imposition of a civil penalty of not less than two hundred fifty  
15 dollars nor more than ten thousand dollars for each violation of this  
16 chapter. ~~or~~
- 17 5. Any combination of these sanctions for a period of time or  
18 permanently and under conditions as the board deems appropriate for the  
19 protection of the public health and safety ~~and as is just in the~~  
20 ~~circumstances.~~

21 ~~H.~~ L. A LICENSEE SHALL RETURN TO THE BOARD A revoked or suspended  
22 license ~~shall be returned to the board~~ within fifteen days after it is  
23 revoked or suspended.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.